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| 10/762,683 | 01/20/2004 | Thomas E. Broome | 1001.1720101 | 5270 |
| 28075 | 7590 | 10/15/2008 | EXAMINER | |
| CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420 | | | SEVERSON, RYAN J | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 25 July 2008 has been entered.

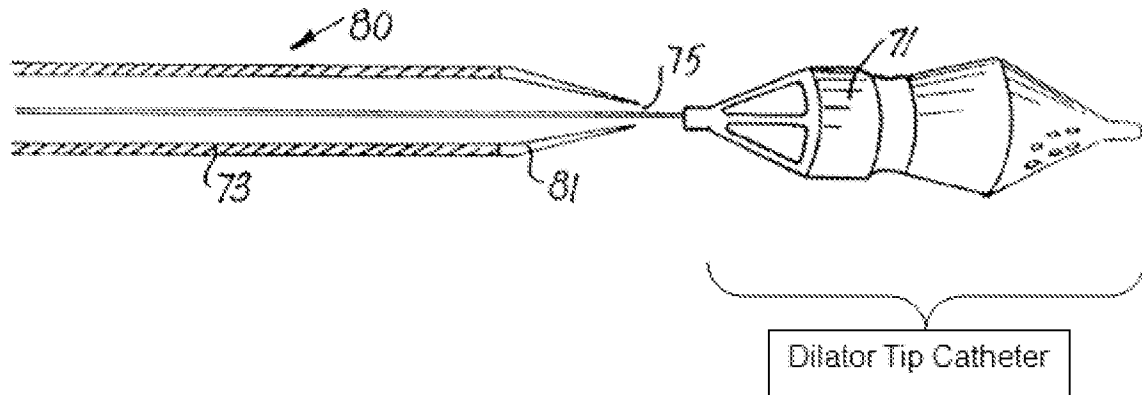
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 4-11, 22 and 25-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Vale et al. (2002/0058963).** Vale et al. disclose a medical device (see figures 27-30) comprising an elongated tubular member (73) having a proximal and distal (81) segment, a dilator tip catheter (see annotated figure 27 below), a filter portion (71), and a guidewire (see figure 27). The distal segment expands radially as the proximal section of the dilator tip catheter passes there through because the outer diameter of the dilator tip catheter is greater than the inner diameter of the distal segment of the elongated tubular member (see figure 29).



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view of Nilsson (5,873,851).** Vale et al. do not disclose the proximal segment of the tubular member varies in thickness along its length. Attention is drawn to Nilsson, who teaches a tubular member can have varying wall thickness (see column 5, lines 9-19) to provide a more flexible and resilient central section to assist in navigation through tortuous lumens. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the wall thickness of the proximal segment of Vale et al. along its length to provide a more flexible and resilient central section to assist in navigation through tortuous lumens.

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6. **Claims 3, 12, 14-21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view Salahieh et al.**

(2004/0127936). Vale et al. do not disclose a braid in the distal segment. Attention is drawn to Salahieh et al., who teach a tubular member may have a braid in its distal end (see paragraph 18) to impart flexibility to the distal portion while maintaining axial stiffness. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the braid of Salahieh et al. in the distal end of the tube of Vale et al. to impart flexibility to the distal portion while maintaining axial stiffness.

7. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vale et al. (2002/0058963) in view of Salahieh et al. (2004/0127936) as applied to claim 12 above, and further in view of Nilsson (5,873,851).** The combination of Vale et al.

and Salahieh et al. does not disclose the proximal segment of the tubular member varies in thickness along its length. Attention is drawn to Nilsson, who teaches a tubular member can have varying wall thickness (see column 5, lines 9-19) to provide a more flexible and resilient central section to assist in navigation through tortuous lumens.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to vary the wall thickness of the proximal segment of the device of the combination of Vale et al. and Salahieh et al. along its length to provide a more flexible and resilient central section to assist in navigation through tortuous lumens.

Response to Arguments

8. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

9. Examiner notes that applicant has not provided any specific definition for what a dilator tip catheter may or may not be as the term "dilator tip catheter" does not appear in the specification. The structural limitations required by the dilator tip catheter set forth in the claims are met by the structure as interpreted above.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Severson whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. S./
Examiner, Art Unit 3731

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731